

Education and Workforce Development Cabinet

Kentucky Board of Education

Department of Education

(New Emergency Regulation)

703 KAR 5:180E. Intervention system for persistently low-achieving schools.

RELATES TO: KRS 158.6453, 158.6455, 160.346

STATUTORY AUTHORITY: KRS 156.029(7), 156.070(5), 158.6453, 158.6455,
160.346 (1)(a) and (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.346 as amended by 2010 Ky. Acts
ch. 1 (HB 176) requires the Kentucky Board of Education to promulgate administrative
regulations to establish the process and procedures for implementing school interventions and
alternate management options for schools, districts, and the state for persistently low-achieving
schools. This administrative regulation establishes the process and procedures for implementing
those interventions and alternate governance options.

Section 1. Definitions. (1) “Assessment Team” means a group assigned by the Commissioner of
Education to conduct the audit required by KRS 160.346 who are selected pursuant to the
requirements of 703 KAR 5:120.

(2) “District Leadership Assessment” means the audit that is conducted:

(a) In a district that contains at least one (1) persistently low-achieving school; and

(b) Pursuant to Section 3 of this administrative regulation.

(3) “Needs Assessment” means a formal process to ascertain the strengths and weaknesses of the identified school for the purpose of developing the strategy for the school’s turnaround pursuant to KRS 160.346.

(4) “School Leadership Assessment” means the audit that is conducted:

(a) In a persistently low-achieving school; and

(b) Pursuant to Section 2 of this administrative regulation.

Section 2. School leadership assessment. (1) Within sixty (60) days of identification as a persistently low-achieving school by the Department of Education, a school leadership assessment shall be performed for a persistently low-achieving school by the assessment team to review the functioning of the school council and also the specific leadership capacity of the principal.

(2) The assessment shall make a determination of the school council’s and principal’s ability to lead the intervention in the school based upon the following criteria:

(a) The school leadership’s ability to function as an effective learning community and support a climate conducive to performance excellence;

(b) The school leadership’s ability to actively engage families and community groups to remove barriers to learning in an effort to meet the intellectual, social, career and developmental needs of students;

(c) The school leadership’s ability to focus its professional learning program primarily on job-embedded professional learning;

(d) The school leadership’s ability to make instructional decisions that focus on support for:

1. Teaching and learning;

2. Organizational direction;

1 3. High performance expectations;
2 4. Creating a learning culture; and
3 5. Developing leadership capacity.

4 (e) The school leadership's ability to organize the school to maximize use of all available
5 resources (both human and fiscal) to support high student and staff performance; and
6 (f) The school leadership's ability to effectively:

7 1. Identify the needs of all students;
8 2. Set specific, measurable goals to address those needs;
9 3. Implement specific strategies to reach those goals;
10 4. Provide adequate resources to implement those strategies; and
11 5. Frequently monitor implementation of the strategies and make adjustments when strategies are
12 not achieving the desired outcomes.

13 (3) The school leadership assessment shall utilize the

14 (a) Standards and Indicators for School Improvement;
15 (b) the Missing Piece of the Proficiency Puzzle;
16 (c) classroom observations;
17 (d) stakeholder interviews;
18 (e) teacher and principal working conditions survey; and
19 (f) portfolio of school records.

20 (4) The assessment team shall submit a report to the Commissioner that specifically makes
21 recommendations regarding whether the:

22 (a) School council has the capability and capacity to continue its roles and responsibilities
23 established in KRS 160.345; and

(b) Principal has the capability and capacity to continue his or her roles and responsibilities established in KRS 160.345.

(5) A School Leadership Assessment shall be repeated every two years until the requirements of KRS 160.346(8) are met.

Section 3. District leadership assessment. (1) Within sixty (60) days of identification by the Kentucky Department of Education as a district containing a low-achieving school, a district leadership assessment shall be performed by the assessment team to review the functioning of the district administration and its specific leadership capacity related to each identified school.

(2) The assessment team shall submit a report to the Commissioner that specifically makes a recommendation regarding whether the district has the capability and capacity to manage the intervention in the identified school(s).

(3) There shall be only one district leadership assessment per district, per year, regardless of the number of persistently low-achieving schools located in the district.

(4) The assessment shall make a determination of the district's ability to manage the intervention in the school based upon the following criteria:

(a) The district leadership's commitment to support each school in its efforts to be effective learning communities and to support climates conducive to performance excellence;

(b) The district leadership's commitment to actively engage families and community groups to remove barriers to learning in an effort to meet the intellectual, social, career and developmental needs of students;

(c) The district leadership's commitment to provide the resources, time and calendars necessary for each school to build professional learning programs based primarily on job-embedded professional learning;

(d) The district leadership's commitment to support instructional decisions that focus on support for teaching and learning, organizational direction, high performance expectations, creating a learning culture, and developing leadership capacity;

(e) The district leadership's ability to provide the human, fiscal and time resources to allow each school to support high student and staff performance; and

(f) The district leadership's ability to support, through its district improvement plan, school efforts to effectively:

1. Identify the needs of all students;

2. Set specific, measurable goals to address those needs;

3. Implement specific strategies to reach those goals;

4. Provide adequate resources to implement those strategies; and

5. Frequently monitor implementation of the strategies and make adjustments if strategies are not achieving the desired outcomes.

(5) The district leadership assessment shall utilize the:

(a) Standards and Indicators for School Improvement;

(b) Stakeholder interviews; and

(c) Portfolio of district records.

(6) A district leadership assessment shall be repeated every two years until the requirements of KRS 160.346(8) are met by all schools in the district.

Section 4. Notification to Schools and Districts of Leadership Assessment Determination.

Within ten (10) days of receipt of the assessment team's recommendations for a specific school, the Commissioner shall notify, in writing, the school council, superintendent, and local board of education of the determination regarding:

1 (a) School council authority;

2 (b) Principal authority; and

3 (c) District capacity.

4 Section 5. Authority to select an intervention option. (1) If the school assessment determines
5 that the school council has sufficient capacity to manage the recovery, and the district assessment
6 determines the district has the capacity to support the recovery, the school council shall, within
7 thirty (30) days after the receipt of the Commissioner's notification, choose an intervention
8 option and develop an action plan. The council shall present the option and plan to the local
9 board of education, which shall give final approval and provide the necessary support and
10 resources for the recovery effort.

11 (2) If the school assessment determines that the school council does not have sufficient capacity
12 to manage the recovery and recommends the council's authority be transferred and the district
13 audit finds sufficient district capacity to support the recovery and recommends the council's
14 authority be transferred to the superintendent, the superintendent shall, within thirty (30) days
15 after the receipt of the Commissioner's notification, make a recommendation for an intervention
16 option and submit the choice to the local board of education, which shall make the final
17 determination on the intervention option.

18 (3) If the school assessment determines that the school council has sufficient capacity to manage
19 the recovery, and the district assessment determines the district does not have the capacity to
20 support the recovery, the school council shall, within thirty (30) days after the receipt of the
21 Commissioner's notification, choose the intervention option and submit its choice to the local
22 board of education, which shall review the option chosen by the school council and submit the
23 choice to the Commissioner of Education who shall approve the choice.

(4) If the school assessment determines that the school council does not have sufficient capacity to manage the recovery and recommends the council's authority be transferred, and the district assessment finds the district lacks sufficient capacity to support the recovery and recommends the council's authority be transferred to the Commissioner of Education, the Commissioner of Education shall, within thirty (30) days after receipt of the assessment determination and in consultation with the school council, superintendent and local board of education, determine the intervention option. The identified school and local district shall implement the intervention option with support from the Kentucky Department of Education.

Section 6. Implementation of intervention options. (1) A school or district engaging in the Re-Staffing Option shall:

(a) Replace the principal with a certified principal who has specific training in turning around low-achieving schools and grant the new leader sufficient operational flexibility, including staffing, calendars, time, and budgeting, to fully implement a comprehensive approach in order to substantially improve student achievement outcomes and, if a high school, increase high school graduation rates. The current principal shall be eligible to remain if the school leadership assessment recommends and the Commissioner determines the principal has the capacity to lead the recovery.

(b) Replace the school council with individuals appointed by the Commissioner. The current school council shall be eligible to remain if the school leadership assessment recommends and the Commissioner determines the school council has the capacity to lead the recovery.

(c) Use standards adopted locally by the board of education to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students;

(d) Select new staff to replace those transferred or dismissed;

- (e) Implement strategies designed to increase opportunities for career growth, including more flexible working conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;
- (f) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;
- (g) Adopt a new governance structure which shall include requiring the school to provide quarterly progress reports to the local board of education and the Kentucky Department of Education;
- (h) Use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with the required core academic standards established in 704 KAR 3:303;
- (i) Promote the continuous use of student data from formative, interim, and summative assessments to inform and differentiate instruction in order to meet the academic needs of individual students;
- (j) Establish schedules and implement strategies that provide increased learning time; and
- (k) Provide appropriate social, emotional, and community-oriented services and supports for students.
- (2) A school or district engaging in the External Management Option shall:
- (a) choose an education management organization (EMO) from a list of approved EMO's established by the Kentucky Board of Education pursuant to Section 6 of this administrative regulation;

1 (b) Contract with the EMO to provide day to day management of the school; and

2 (c) Provide quarterly progress reports to the local board of education and the Kentucky

3 Department of Education.

4 (3) A school or district engaging in the Transformation Option shall:

5 (a) Replace the principal who led the school prior to commencement of the transformation model

6 with a certified principal who has specific training in turning around low-achieving schools. The

7 current principal shall be eligible to remain if the school leadership assessment recommends and

8 the Commissioner determines the principal has the capacity to lead the recovery and has specific

9 training in turning around low-achieving schools;

10 (b) Replace the school council with individuals appointed by the Commissioner. The current

11 school council shall be eligible to remain if the school leadership assessment recommends and

12 the Commissioner determines the school council has the capacity to lead the recovery.

13 (c) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

14 1. Take into account data on student growth as a significant factor as well as other factors such as

15 multiple observation-based assessments of performance and ongoing collections of professional

16 practice reflective of student achievement and increased high-school graduations rates; and

17 2. Are designed and developed with teacher and the principal's involvement;

18 (d) Identify and provide additional leadership and compensation opportunities to school leaders,

19 teachers, and other staff who have increased student achievement and high-school graduation

20 rates, if applicable, and identify and remove those who, after ample opportunities have been

21 provided for them to improve their professional practice, have not done so;

22 (e) Provide staff with ongoing, high-quality, job-embedded professional development that is

23 aligned with the school's comprehensive instructional program and designed with school staff to

1 ensure they are equipped to facilitate effective teaching and learning and have the capacity to
2 successfully implement school reform strategies which shall include:

- 3 1. Subject-specific pedagogy;
- 4 2. Instruction that reflects a deeper understanding of the community served by the school; and
- 5 3. Differentiated instruction;

6 (f) Implement strategies designed to increase opportunities for career growth which shall include
7 more flexible working conditions designed to recruit, place, and retain staff with the skills
8 necessary to meet the needs of the students in a transformation school;

9 (g) Use data to identify and implement an instructional program that is research-based and
10 vertically aligned from one grade to the next as well as aligned with state academic standards;

11 (h) Promote the continuous use of student data from formative, interim, and summative
12 assessments to inform and differentiate instruction in order to meet the academic needs of
13 individual students;

14 (i) Increase learning time and create community-oriented schools that:

- 15 1. Establish schedules and implement strategies that provide increased learning time; and
- 16 2. Provide ongoing mechanisms for family and community engagement; and

17 (j) Provide operational flexibility and sustained support that:

- 18 1. Gives the school sufficient operational flexibility, including staffing, calendar, time, and
19 budgeting to fully implement a comprehensive approach to substantially improve student
20 achievement outcomes and increase high school graduation rates; and
- 21 2. Ensures that the school participates in ongoing, intensive technical assistance and related
22 support from the local district and the state.

(k) Provide quarterly progress reports to the local board of education and the Kentucky Department of Education.

(4) A school or district engaging in the School Closure Option shall develop a plan for the closure of the school. The plan shall include:

(a) A process for the transfer of students to higher performing schools in the district;

(b) A determination by the local board of education regarding staff assignments and the use of the existing facility and other assets;

(c) A method of monitoring the progress of students in their new school environment; and

(d) A quarterly progress report to the local board of education and the Kentucky Department of Education.

Section 7. Establishment of approved External Management Organizations.

(1) The list of approved EMOs shall be created by the Commissioner of Education following the application process established in subsection (2) of this section.

(2) The Commissioner shall issue a request for information to solicit EMO applicants who shall detail the scope of the services they are able to provide to persistently low-achieving school. The request for information shall include the following information to solicit the EMO's qualifications:

(a) The ability of the EMO to staff the school with dynamic leadership with experience in turning around low-performing schools during the period of the contract;

(b) The ability of the EMO to conduct a needs assessment in the school and develop a plan of action based on the needs assessment;

(c) The ability of the EMO to deliver a comprehensive list of services designed to turnaround the school(s);

- (d) The ability of the EMO to screen staff and make decisions on staff assignments;
- (e) Its familiarity with Kentucky school laws and administrative regulations;
- (f) The experience of the EMO in turning around low-achieving schools;
- (g) References from other low-achieving schools or school districts supporting the EMO's ability to turn around low-achieving schools;
- (h) Evidence by the EMO that its provision of services includes instructional leadership, professional learning support for teachers and other staff, and services to families and community stakeholders;
- (i) Evidence of the EMO's financial stability, any pending or threatened litigation, and liability insurance coverage; and
- (j) Other information required pursuant to KRS Chapter 45A.

(3) The Commissioner of Education shall review all responses and determine which applicants meet the criteria in subsection (2) of this section. The qualifying applicants shall be submitted to the Kentucky Board of Education for approval. The list of approved EMOs shall be made public upon approval by the Kentucky Board of Education.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Standards and Indicators for School Improvement", dated March 30, 2000; and

(b) "The Missing Piece of the Proficiency Puzzle, dated June 2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

(Date)

Terry Holliday, Ph.D.
Commissioner of Education

(Date)

Joseph Brothers, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 30, at 10:00 a.m. in the State Board Room, 1st Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 31, 2010. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin C. Brown, General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 703 KAR 5:180E

Agency Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the processes to be followed when a school is identified as persistently low-achieving.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of 160.346 that set forth the processes to be followed when a school is identified as persistently low-achieving.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specifics for establishing the process and procedures for implementing the intervention options of KRS 160.346 that are available to schools, districts, local boards of education and the commissioner of education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specifics for establishing the process and procedures for implementing the intervention options of KRS 160.346 that are available to schools, districts, local boards of education and the commissioner of education.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not an amendment.

(b) The necessity of the amendment to this administrative regulation: Not an amendment.

(c) How the amendment conforms to the content of the authorizing statute: Not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: Not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky that have schools identified as persistently low-achieving and supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The proposed regulation will impact identified schools and districts by providing the detail necessary to carry out their roles and responsibilities in KRS 160.346.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: School districts must formally choose an intervention option for those options listed in KRS 160.346 and carry out the processes detailed for that option in the regulation.

The Commissioner of Education must notify the local district upon receipt of audit committee recommendations as to school and district leadership capacity based on the recommendations in the audits. Kentucky Department of Education staff and contracted individuals will be responsible for completion of the audits described in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the School Districts or the Commissioner of Education other than minimal administrative costs. The audit is paid through the Commonwealth School Improvement Funds. The cost is estimated at \$25,000 per audit.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The identified persistently low-achieving schools will have an improved chance of turning around their struggling school by qualifying for significant fiscal and human resources to assist in the school improvement efforts. The Commissioner and Kentucky Department of Education staff will have better ability to conduct audits and make recommendations to the school districts regarding the best strategies for improving these schools.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The proposed regulation results in additional costs to the Kentucky Department of Education to conduct the audit process. The audit is paid through the Commonwealth School Improvement Funds. The cost is estimated at \$25,000 per audit.

(b) On a continuing basis: The proposed regulation results in additional costs to the Kentucky Department of Education to conduct the audit process. The audit is paid through the Commonwealth School Improvement Funds. The cost is estimated at \$25,000 per audit.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Commonwealth School Improvement Funds and federal funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts containing low-achieving schools.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 703 KAR 5:180E

Contact Person: Kevin C. Brown

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School districts.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.035; KRS 156.070; KRS 160.346.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no additional revenue generated by this administrative regulation. The amount of dollars expended by the State for this administrative regulation depends on the number of schools identified as persistently low-achieving. No additional costs are expected.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None, however this regulation enables districts to be eligible for federal funding.

(c) How much will it cost to administer this program for the first year? The proposed regulation, as required by HB 176, will result in audits of low-performing schools and districts. The audit is paid through the Commonwealth School Improvement Funds. The cost is estimated at \$25,000 per audit.

(d) How much will it cost to administer this program for subsequent years? The proposed regulation, as required by HB 176, will result in audits of low-performing schools and districts. The audit is paid through the Commonwealth School Improvement Funds. The cost is estimated at \$25,000 per audit.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

Summary Page - Incorporation by Reference

703 KAR 5180E. Intervention system for persistently low-achieving schools.

- (1) The following documents are incorporated by reference:
 - (a) "Standards and Indicators for School Improvement", dated March 30, 2000; and
 - (b) "The Missing Piece of the Proficiency Puzzle, dated June 2007.
- (2) These documents are used in conducting the leadership assessments outlined in this regulation.
- (3) The documents incorporated by reference consist of (35) pages.